

REMARKS

Reconsideration and allowance of the above-referenced application are respectfully requested.

Claims 5, 7, 8, 10, 11, 12, 13 and 16 have been amended.

Further, the objection to the disclosure related to the lack of ATCC numbers on page 17 of the specification has been addressed and should be withdrawn accordingly.

Rejection of Claims 6, 9-12, and 14-16 Under 35 U.S.C. 112, First Paragraph

The Examiner has rejected claims 6, 9-12 and 14-16 under Section 112, first paragraph as failing to provide an enabling disclosure for the claimed invention.

It is submitted that hybridoma cell lines have been deposited in connection with all 6 monoclonal antibodies recited in the pending claims. These deposits are evidenced by the attached copies of the relevant ATCC Deposit Receipts.

Further, it is submitted that the deposits have been made under the terms of the Budapest Treaty, and that all restrictions imposed by the depositor on the availability to the public of the deposited material will be irrevocably removed upon the granting of a patent.

Rejection of Claim 11 Under 35 U.S.C. 112, Second Paragraph

The Examiner has rejected claim 11 under Section 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In particular, the Examiner notes that claim 11 references Mab 120-270, rather than Mab 120A-270.

In response, it is submitted that the rejection has been addressed by the amendment noted above and should be withdrawn accordingly.

Rejection of Claims 5, 8 and 13 Under 35 U.S.C. 102(b)

The Examiner has rejected claims 5, 8 and 13 under 35 U.S.C. 102(b) as being clearly anticipated by Butman and Venetta. In particular, the Examiner alleges that the document disclosing monoclonal antibodies, including labeled conjugates that recognize the capsid antigens of both HIV-1 and -2 and detection assays employing these monoclonal antibodies.

In response, it is submitted that the claimed invention is not anticipated by Butman et al. More specifically, Butman et al. do not disclose the use of the six monoclonal antibodies recited in the above-amended claims for use in their diagnostic assays. Further, as the Examiner is aware, each monoclonal antibody has its own unique properties and a tremendous amount of labor is required in order to find even one monoclonal antibody which may be utilized in an assay. Thus, not only does the Butman et al. document not anticipate the claimed invention, one of ordinary skill in the art certainly would not have been motivated to have substituted the monoclonal antibodies of the claimed invention for those recited in the Butman et al. document.

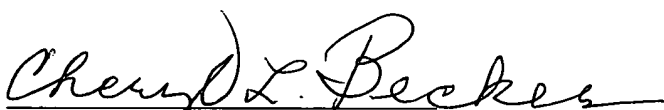
In view of the above, it is submitted that the rejection of claims 5, 8 and 13 under Section 102(b) has been overcome and should be withdrawn accordingly.

In conclusion, it is believed that the subject application is in condition of allowance and Notice to that effect is respectfully requested.

Should the Examiner have any questions concerning the above, he is respectfully requested to contact the undersigned at the telephone number listed below.

Respectfully submitted,
Lou, et al.

Customer Number 23492
ABBOTT LABORATORIES
Telephone: (847) 935-1729
Facsimile: (847) 938-2623


Cheryl L. Becker
Registration No. 35,441
Attorney for Applicants

ATCC

10801 University Blvd • Manassas, VA 20110-2209 • Telephone: 703-365-2700 • FAX: 703-365-2745

BUDAPEST TREATY ON THE INTERNATIONAL RECOGNITION OF THE DEPOSIT OF MICROORGANISMS FOR THE PURPOSES OF PATENT PROCEDURE

INTERNATIONAL FORM

RECEIPT IN THE CASE OF AN ORIGINAL DEPOSIT ISSUED PURSUANT TO RULE 7.3
AND VIABILITY STATEMENT ISSUED PURSUANT TO RULE 10.2

To: (Name and Address of Depositor or Attorney)

Abbott Laboratories
Attn: Joan Tyner
100 Abbott Park Rd., D-9AV, AP2
Abbott Park, IL 60064

Deposited on Behalf of: Abbott Laboratories

Identification Reference by Depositor:

Murine Hybridoma: Anti-HIV-1 117-289-555
Murine Hybridoma: Anti-HIV-1 108-394-470
Murine Hybridoma: Anti-HIV-1 103-350-474
Murine Hybridoma: Anti-HIV-1 115B-151-423
Murine Hybridoma: Anti-HIV-1 115B-303-620

Patent Deposit Designation

PTA-2806
PTA-2807
PTA-2808
PTA-2809
PTA-2810

The deposits were accompanied by: a scientific description, a proposed taxonomic description indicated above. The deposits were received December 13, 2000 by this International Depository Authority and have been accepted.

AT YOUR REQUEST: X We will inform you of requests for the strains for 30 years.

The strains will be made available if a patent office signatory to the Budapest Treaty certifies one's right to receive, or if a U.S. Patent is issued citing the strains, and ATCC is instructed by the United States Patent & Trademark Office or the depositor to release said strains.

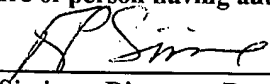
If the cultures should die or be destroyed during the effective term of the deposit, it shall be your responsibility to replace them with living cultures of the same.

The strains will be maintained for a period of at least 30 years from date of deposit, or five years after the most recent request for a sample, whichever is longer. The United States and many other countries are signatory to the Budapest Treaty.

The viability of the cultures cited above was tested January 4, 2001. On that date, the cultures were viable.

International Depository Authority: American Type Culture Collection, Manassas, VA 20110-2209 USA.

Signature of person having authority to represent ATCC:



Frank Simione, Director, Patent Depository

Date: January 10, 2001

cc: Cheryl Becker



10801 University Blvd • Manassas, VA 20110-2209 • Telephone: 703-365-2700 • FAX: 703-365-2745

BUDAPEST TREATY ON THE INTERNATIONAL RECOGNITION OF
THE DEPOSIT OF MICROORGANISMS FOR THE PURPOSES OF PATENT PROCEDURE

INTERNATIONAL FORM

RECEIPT IN THE CASE OF AN ORIGINAL DEPOSIT ISSUED PURSUANT TO RULE 7.3
AND VIABILITY STATEMENT ISSUED PURSUANT TO RULE 10.2

To: (Name and Address of Depositor or Attorney)

Abbott Laboratories
Attn: Joan Tyner
D-9AV
100 Abbott Park Rd
Abbott Park, IL 60064

Deposited on Behalf of: Abbott Laboratories

Identification Reference by Depositor:
Murine Hybridoma: Anti-HIV-1 120A-270-1068

Patent Deposit Designation
PTA-3890

The deposit was accompanied by: ☐ a scientific description ☐ a proposed taxonomic description indicated above.

The deposit was received December 4, 2001 by this International Depository Authority and has been accepted.

AT YOUR REQUEST: ☒ We will inform you of requests for the strain for 30 years.

The strain will be made available if a patent office signatory to the Budapest Treaty certifies one's right to receive, or if a U.S. Patent is issued citing the strain, and ATCC is instructed by the United States Patent & Trademark Office or the depositor to release said strain.

If the culture should die or be destroyed during the effective term of the deposit, it shall be your responsibility to replace it with living culture of the same.

The strain will be maintained for a period of at least 30 years from date of deposit, or five years after the most recent request for a sample, whichever is longer. The United States and many other countries are signatory to the Budapest Treaty.

The viability of the culture cited above was tested December 4, 2001. On that date, the culture was viable.

International Depository Authority: American Type Culture Collection, Manassas, VA 20110-2209 USA.

Signature of person having authority to represent ATCC:


Tanya Nunnally, Patent Specialist, Patent Depository

Date: December 18, 2001

cc: Cheryl Becker
(Ref: Docket or Case No.: 6755.US.01)